IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO. OF 2007
[LODGING NO.364 OF 2007]
IN
NOTICE OF MOTION NO.469 OF 2007
IN
SUIT NO.313 OF 2007

Priyakumar Trilokinath Agrawal .... Appellant
Vs.
M/s. Raghunath Company & Ors. .... Respondents

Sarvasri D.D. Madon, Senior Advocate, with
Rajiv Narula i/b M/s. Jhangiani, Narula &
Associates for the Appellant.

Shri M.M. Vashi for the Respondent Nos.3 to
6 and 12 to 15.

Shri Sean Wassoodew for the Respondent No.17.

CORAM: R.M.S. KHANDEPARKAR &
D.G. KARNIK, JJ.

DATED: APRIL 19, 2007

P.C:

1. Heard. The appellant challenges the order dated 22-3-2007 passed in Notice of Motion No.469 of 2007 in Suit No.313 of 2007. By the impugned order, ad-interim relief has been refused to the appellant. The ad-interim relief which was sought for was in the nature of maintenance of status quo in respect of the suit property as well as for appointment of Court Receiver. The suit has been filed for specific performance of an agreement stated to have been entered into between the parties in the year 2003, and that too, orally. The

records prima facie do not disclose any act of readiness and willingness on the part of the appellant from February, 2004 till March, 2006 i.e., till the date of issuance of notice demanding the respondents to execute the sale deed in respect of the suit property and to perform the obligations on the part of the appellant under the alleged agreement for sale of the property. Obviously therefore, no prima facie case was made out for grant of ad-interim relief in the matter and hence no fault can be found with the impugned order. Besides, it is the case of the appellant that the property was sought to be purchased for development. Further that, already there are third party rights created in favour of third parties by execution of the deed which has been duly registered. That apart, the impugned order is merely an ad-interim relief and the notice of motion is yet to be decided and the parties will have opportunity to place on record the materials in support of their rival contentions before the learned single Judge on the matter in controversy. In the absence of any prima facie case being made out, we do not find any case for interference in the impugned order in the appeal. The appeal, therefore, fails and is rejected.

2. At this stage, the learned Counsel for the appellant prays for continuation of the status quo order, which was granted by the learned single Judge while rejecting

the ad-interim relief, for a further period of four weeks. Since no prima facie case has been made out, we do not find any justification for continuation of the order of status quo. The request for continuation of the status quo is, therefore, rejected.

(D.G.Karnik, J.) (R.M.S.Khandeparkar, J.)

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